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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/683,913	10/10/2003	Timothy P. Blair	200300432-1	3073

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EXAMINER

BHAT, ADITYA S

ART UNIT PAPER NUMBER

2863

DATE MAILED: 08/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/683,913	Applicant(s) BLAIR ET AL.	
	Examiner Aditya S. Bhat	Art Unit 2863	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1:704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-7, 9-12, 14-28, 30-32 and 34-46.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant is reminded that during patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

While the meaning of claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allowed. This means that the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification. In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).

In this instance applicant argues that the prior art of record does not teach

a. claim 1 - a third means for processing said equipment data in accordance with a plurality of optional services, wherein said configuration data is adapted to enable or disable said optional services. (col. 5, lines 50-64) , The custom client software taught by Narasimhan et al. col. 5, lines 50-64) is interpreted to read on the claimed limitation since the software is customized to the clients needs and could perform the optional service as claimed in the pending application. Applicant goes on to argue that wherein said appliance is adapted to restart upon receiving a restart signal from said communication module. see perholtz (col.1, lines 20-23)

b. claims 10-11 and 19 - With regards to claim 10-11, applicant argues that the Narasimhan reference only teaches that the client machine is provided software updates as opposed to the chip itself. In response the client machine includes the chip and since the entire machine receives a software update the chip would receive updated software as well and is therefore believed to read on the claimed invention.

c. claim 21 - With regards to claim 21 applicant argues that the prior art of record does not teach a communication module for receiving one or more software components, each software component for processing said equipment data in accordance with an optional service, and for receiving a set of configuration data adapted to enable or disable said software components; (Col.1, lines 62-63) a processor for executing said software components in accordance with said configuration data. (72;figure 12)

d. claim 22 - With regards to claim 22 applicant argues that the prior art of record does not teach software adapted primarily for monitoring said devices, said software including one or more software components, each software component for processing said equipment data in accordance with an optional service; (Col.1, lines 62-63)

a communication module for receiving a set of configuration data adapted to enable or disable said software components, wherein said software components comprise at least software with instructions for monitoring a different appliance; (90; figure 12)
a processor for executing said software in accordance with said configuration data. (72;figure 12)

e. claim 23 -With regards to claim 23 applicant argues that the prior art of record does not teach third means for processing said equipment data in accordance with a plurality of optional services, wherein said configuration data is adapted to enable or disable said optional services; (Col., lines 49-62) wherein said third means includes:
software for processing said equipment data, said software including one or more software components, each software component for performing an optional service, wherein said software component for performing an optional service, wherein said software is adapted to restart said monitoring appliance after receiving and storing said configuration data; (Col. 3. lines 48-52) and
a processor for executing said software in accordance with said configuration data, which is adapted to enable or disable said software components; (Col. 5 lines 21-22)

f. claims 24-28, 30-32 and 34-36 dependent on rejected independent claims.

g. claim 37 - With regards to claim 37 applicant argues that the prior art of record does not teach appliance software adapted primarily for monitoring said equipment, said software including one or more software components, each software component for processing said equipment data in accordance with an optional service, wherein said optional service includes functionality for monitoring a different appliance; (Col.1, lines 62-64)

a first communication module for receiving a set of configuration data adapted to enable or disable said software components; (64; figure 12) and a first processor for executing said software in accordance with said configuration data; (figure 12)

h. claim 38-41 dependent on rejected independent claims.

i. claim 42- With regards to claim 42 applicant argues that the prior art of record does not teach a first communication module for receiving one or more software components, each software component for processing said equipment data in accordance with an optional service, and for receiving a set of configuration data adapted to enable or disable said software components; (64;figure12) and a first processor for executing said software components in accordance with said configuration data; (74;figure 12)

J claim 43- With regards to claim 43 applicant argues that the prior art of record does not teach storing a plurality of configurable software components in said monitoring appliance, each software component for performing a function of said monitoring appliance; (Col. Lines)

storing, in a central server, configuration data that determines which software components are enabled or disabled; (Col.3, Lines 4-5)
downloading said configuration data from said central server to said monitoring appliance; (Col.8, Lines 15-18)

k claims 44-46 dependent on rejected independent claims.

BRYAN BUI
PRIMARY EXAMINER

